

## **REMARKS**

Reconsideration is respectfully requested.

Claim 1 has been amended to address the rejection of claims 1, 2, 4, 6 and 10 under 35 U.S.C. 102(b) based on Kettle (US 5,032,188), and the rejection of claims 3, 5 and 7 under 35 U.S.C. 103 based on Kettle in view of Nicholson (US 5,138,738). Claim 1 now recites that (1) the package is hermetically sealed, (2) the package comprises a flexible or non-flexible material that defines a fluid holding interior of the package, (3) the fluid holding element is disposed in the package interior and surrounded by the package material, (4) and the breakable portion comprises a frangible seal formed in the package material that allows the package material to be broken.

The anticipation reference of Kettle is directed to a paint brush storage device in which a closed sachet 2 contains a brush preservative and/or brush cleaning solution. The sachet is opened by cutting or tearing (column 4, lines 7-16) and a brush 4 is inserted in the sachet so that its bristles 5 are immersed in the preservative/cleaning solution (column 5, lines 30-39). The open mouth of the sachet is then either twisted around the brush handle at 7, or a self adhesive strip 8 is separately applied, or a wire tie, string or tape that may or may not be provided as an integral part of the sachet is used (column 5, lines 40-47). The solution in the bag preserves/cleans the brush so that it is in good condition for the next use.

The obviousness reference of Nicholson is directed to a porous bag 30 that wraps around the dispensing end of a coating applicator, such as a paint brush 20. The bag is said to improve the characteristics of coatings applied by the applicator. The open end of the bag is detachably mountable to the paint brush using a drawstring, Velcro fasteners, elastic bands or the like (column 5, lines 30-33).

There are at least two limitations of claim 1 that appear to be missing from Kettle and Nicholson. First, neither reference discloses a sealed package containing a “fluid to be dispensed.” In Kettle, the sachet 2 holds a brush preservative/cleaning solution. This is not a fluid to be dispensed from the sachet. The fluid is intended to stay in the sachet to help preserve/clean the brush. In Nicholson, the bag 30 is porous and does not hold fluid. Second, neither reference discloses a package “having a breakable portion comprising a frangible seal formed in said package material that allows said package material to be broken” (see amended claim 1). The Office Action cites the adhesive strip 8 of Kettle’s Fig. 3 as providing a breakable portion of the sachet 2, but element 8 is a strip of adhesive tape that is wrapped around the interface of the sachet and the brush handle. Presumably, the adhesive tape 8 is peeled back from the brush handle when the brush is ready to be used. This does not cause any breaking of the sachet and the sachet thus cannot be said to have a breakable portion as set forth in amended claim 1. The sachet remains intact at all times and is not broken. The same would hold true if the adhesive tape 8 was replaced with a wire tie, string or tape, as proposed at column 5, lines 45-47 of Kettle. The unfastening of any of these three devices would not result in breaking the sachet, and again, the sachet could not be considered to have a breakable portion as recited in amended claim 1.

Insofar as independent claim 1 recites limitations not found in Kettle, the anticipation rejection under 35 U.S.C. 102 cannot be supported by that reference, as required by well settled law. Claim 1 should therefore be allowable, and Claims 2-7 and 10, which depend from claim 1, should likewise be allowable. In addition, claim 10 further recites that the breakable portion of the package comprises a “strip seal.” Contrary to the assertions of the Office Action, the adhesive strip 8 of Kettle’s Fig. 3 is not a strip seal, it is a piece of tape

that is placed on the sachet after insertion of the brush, and thereafter removed when the brush is ready for use. A strip seal is not something that would even be practical in Kettle's application because a casual user would not have the equipment needed to form a strip seal after the brush is inserted in the sachet.

In view of the foregoing, Applicants respectfully request that all rejections be withdrawn. In addition, because there is now an allowable generic claim (claim 1), Applicants are entitled to have non-elected claims 8, 9 and 11-25 considered on the merits.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Walter W. Duft', written in a cursive style.

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